

REMARKS

Claims 1 to 10, 17, 26, 32 to 34 and 39 to 46 are pending. Claims 2, 3, 5, 7 to 10, 17, 32 and 34 are withdrawn. Claim 32 is cancelled and claim 46 is new.

No claims are allowed.

1. The Applicants would like to thank Examiners Matthew Lawson and Thomas Barrett for the time they took on September 16, 2010 to interview with their attorney regarding the merits of the pending claims. The substance of the interview is essentially as set forth in the Interview Summary having a notification date of September 23, 2010.

2. Claims 1, 4, 6, 26, 33 and 39 to 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lechot (U.S. Patent No. 6,702,819) in view of Salyer (U.S. Patent No. 4,811,632) in further view of Calandruccio et al. (U.S. Patent No. 5,913,858).

Lechot describes a fixing cross for a reamer. The cross comprises a diametral bar 1 with a hole bored perpendicular to its axis. A cylindrical pin 2 is fitted into that hole and protrudes from either side of the bar 1. Two radial arms 3 and 4 perpendicular to the diametral bar 1 are engaged on the pin, one on each side of the bar 1. In that manner, it appears that the diametral bar 1 and the supported arms 3 and 4 provide cross structures of equal diameter.

Salyer relates to an acetabular reamer cup 12. At column 3, lines 16 to 24 the cup 12 is described as being "generally bowl-shaped and preferably hemispherical". Salyer further describes that the prior art "invention is not limited to a hemispherical bowl-shaped cup 12 but may include bowl-shaped

cups of other portions of a sphere or cups with the shape of other surfaces of revolution."

Regardless of this very broad statement, the applicants are of the opinion that one skilled in the art at the time of their invention would not have been able to readily adapt Salyer's "bowl-shaped, hemispherical" reamer to one as presently set forth in amended independent claims 1 and 33. In particular, the skilled artisan would not have been readily able to discern from Salyer the claimed domed-shaped reamer comprising:

- at least two opposed first edge portions of the lower edge residing on the theoretical equatorial plane, wherein a second theoretical plane perpendicular to the equatorial plane intersects the longitudinal axis and two of the at least two first edge portions residing on the theoretical equatorial plane; and

- at least two continuously curved second edge portions of the lower edge spaced from the theoretical equatorial plane toward the apex, wherein at least one second edge portion resides on opposite sides of the second theoretical plane disposed between and connected to two of the first edge portions.

The Calandruccio et al. patent describes a cutting instrument 2.35 comprising a cutting head 2.43 and an elongated shaft 2.45. As described at column 8, lines 57 to 64, "[t]he cutting instrument head 2.43 preferably has the shape of a hemisphere with truncated sides 2.47, and a semispherical cutting edge on face surface 2.51." It is noted that "truncate" is defined as "having the end square or even". (See Webster's New Collegiate Dictionary, copyright 1979.) In that light, this

cutting head 2.43 is similar to that described in the applicants' specification with respect to FIGs. 1 to 3 as a "prior art acetabular reamer having a static insertion profile area with two curved sides and two straight sides" (see published paragraph 0029). As such, it does not meet the "continuously curved" structure for the second edge portion set forth in amended independent claims 1 and 33.

Accordingly, it is believed that amended independent claims 1 and 33 are allowable over this combination of prior art references. Claims 4, 6, 26 and 39 to 45 are patentable as hinging from allowable base claims.

Reconsideration of this rejection is requested.

3. In the Response to Arguments section of the office action, the Examiner takes exception with the Applicants' arguments filed on May 19, 2010 with respect to Lechot. The Examiner writes that "the pin indeed has free ends in which the arms 3 and 4 are capable of attaching to the pin; as claimed the pin is capable of being attached to a bayonet catch which depending on the arms of the bayonet catch would grasp pin 2 without the arms on it or indirectly via the arms 3 and 4 when they are installed onto the pin." The Applicants respectfully disagree.

Lechot does not provide any teaching that the pin 2 is intended to be used alone and without being received in the blind axial holes (unnumbered) of the radial arms 3 and 4. To hold that the pin is intended to be used "without the arms" is only possible by disassembling or destroying Lechot's reamer. This reference is clear that the pin 2 is only intended to serve as a support for the arms 3, 4. As described at column 2, lines 17 to 29, "the ends of the arms of the cross thus formed, [are provided with] truncated facets 5, 6, 7, 8 [that] are machined

on part of the diameter of these arms, said truncated facets 5, 6, 7, 8 being situated on one and the same conical surface whose axis passes through the center of the fixing cross. The diameter of this conical surface in the area of the facets 5 to 8 corresponds to the internal diameter of the reamer shown in FIG. 3, measured in its equatorial plane, in such a way that the fixing cross can be adjusted in the hemispherical cap of the reamer 9 as is shown in FIG. 3."

This teaching makes it clear that not only is the diametrical bar 1 intended to have truncated facets 6, 8, but so too are the arms 3 and 4. Truncated facets 7, 8 help to stabilize connection of respective arms 3 and 4 to the reamer edge, and the arms 3, 4 can only be present if they are supported on pin 2. That the pin 2 can be used without the arms is a factually unsupported opinion of the Examiner.

4. The reamer of FIGs. 8 and 9 was elected in the Election of Species response filed on December 1, 2008. This reamer is described as having first curved portions 24 (withdrawn claims 2, 3, 8 and 9) and second curved portions 26 (withdrawn claims 4, 5 and 8). At paragraph 0062 what is meant by the designation "concave" and "convex" is defined. There, the specification states that "[t]he pair of second curved portions 26 may be either convex (FIGS. 4-7) or concave (FIGS. 8-9), relative to the rotational axis 14". (Emphasis added.) This means that when the Applicants' attorney elected "Species II (Figures 8 and 9)" in the Dec. 1, 2008 response, the subject matter set forth in withdrawn claim 5 was elected. However, the referenced response further states that "[t]his Species reads on claims 1-4, 7-9, 11-24, 31 and 32, as well as claims 6, 25-30, and 33-36." (Emphasis added.) That is contrary to the embodiment

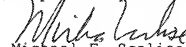
shown in FIGs. 8 and 9. If the second curved portion 26 has a concave shape with respect to rotational axis 14, then claim 5 should have been elected and claim 6 withdrawn, not the other way around.

Since independent claims 1 and 33 are believed to be allowable and of a generic form, withdrawn claims 2, 3, 5, 7 to 10, 17 and 34 should be brought back into the application, and allowed. That is in addition to dependent claims 4, 6, 26 and 39 to 45.

5. New independent claim 46 is essentially amended independent claim 33 without the holder.

It is believe that claims 1 to 10, 17, 26, 33, 34 and 39 to 46 are in condition for allowance. A Notice of Allowance is requested.

Respectfully submitted,


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